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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,932	07/29/2003	James C. Stebnicki	790063.94485	7510

26710 7590 11/29/2005

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EXAMINER

BOYKIN, TERRESSA M

ART UNIT PAPER NUMBER

1711

DATE MAILED: 11/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/628,932	<b>Applicant(s)</b> STEBNICKI ET AL.	
	<b>Examiner</b> Terressa M. Boykin	<b>Art Unit</b> 1711	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on 14 September 2005.
- 2a)  This action is **FINAL**.
- 2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1-53 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on 7-29-03 is/are: a)  accepted or b)  objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a)  All    b)  Some \*    c)  None of:  
 1.  Certified copies of the priority documents have been received.  
 2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_  
 3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4)  Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other: \_\_\_\_\_

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**Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United

**Claims 1- 53 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 5579944 see cols 1-4, claim 1.**

The reference multi-layer gasket for providing a seal between a mounting cup and a container comprising a middle layer of rigid plastic material and inner and outer layers of softer plastic material. The middle layer supports the inner and outer layers, which provide sealing surfaces with the mounting cup and the container bead. A gasketed mounting cup comprising a panel, a skirt integral with and depending from the periphery of the panel, wherein the skirt is outwardly flared to form an annular channel for receiving a container bead that defines the container opening and a multi-layer gasket positioned in the channel portion of the mounting cup, which gasket comprises a middle layer of rigid plastic material, an inner layer of soft plastic material adjacent the channel of the mounting cup and an outer layer of soft plastic material for engaging the container bead. The middle layer is preferably high density polyethylene or polypropylene and the inner and outer layers are preferably linear low density polyethylene. A layer of thermally activated adhesive can be placed adjacent the inner layer.

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Claim 4 of the reference discloses a multi-layer gasket of claim 1, wherein said intermediate layer is chosen from the group consisting of polyethylene, acrylonitrilebutadienestyrene, acetal, polyamide, *polycarbonate*, polypropylene or *polyester*.

Claim 6 of the reference discloses a multi-layer gasket of claims 1, 4 or 5, wherein said second layer is chosen from the group consisting of polyethylene, elastomers, *polyurethane*, ethylvinylacetate (EVA) copolymer, ethylene-ethyl acrylate copolymer, polyethylene-butyl compounds, polyisobutylene or polyester elastomers.

Thus, the references discloses a molded article wherein one inner layer or substrate layer comprises a polycarbonate and a polyester and an outer layer which may be a polyurethane. In view of the above, there appears to be no significant difference between the reference and that which is claimed by applicant(s). Any differences not specifically mentioned appear to be conventional. Consequently, the claimed invention cannot be deemed as novel and accordingly is unpatentable.

### Correspondence

- Please note that the cited U.S. patents and patent application publications are available for download via the Office's PAIR. As an alternate source, all U.S. patents and patent application publications are available on the USPTO web site ([www.uspto.gov](http://www.uspto.gov)), from the Office of Public Records and from commercial sources. Applicants may be referred to the Electronic Business Center (EBC) at <http://www.uspto.gov/ebc/index.html> or 1-866-217-9197.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Terressa Boykin whose telephone

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number is 571 272-1069. The examiner can normally be reached on Monday through Friday from 6:30am to 3:00pm.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. The general information number for listings of personnel is ( **571-272-1700**).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

tmb

  
**Examiner Terressa Boykin**  
**Primary Examiner**  
**Art Unit 1711**